

REMARKS

The Official Action of February 7, 2007, and the prior art relied upon therein have been carefully reviewed. The claims in the present application are now only elected claims 2-8, the non-elected claims having been deleted without prejudice to applicants' rights. Applicants' claims define novel and un-obvious subject matter and should be allowed. Applicants respectfully request favorable reconsideration and allowance.

**Applicants again respectfully request the PTO to acknowledge receipt of applicants' papers filed under Section 119.**

The restriction requirement has been repeated and made final. Applicants now respectfully and reluctantly accept the PTO ruling, at least for the present time, applicants reserving their rights to either re-insert such claims and petition the matter, or proceed with a further divisional application retaining their rights under §§121, 120 and 119.

Applicants understand that the PTO deems the non-elected subject matter and the elected subject matter to be

patentably distinct from one another, i.e. that each is *prima facie* non-obvious from the other.

Main claim 2 has been amended extensively above. In this regard, the present application is a division of the parent application which matured into U.S. patent 6,648,975, the claims of which call for **apparatus**. As amended above, method claim 2 now calls for features similar to features called for in apparatus claim 1 of the parent patent 6,648,975.

Claim 2 has been rejected under §102(e) as anticipated by Yoshida et al USP 6,454,862 (Yoshida), also cited during the prosecution of the parent application, and listed as citation AF on the form SB/08A. This rejection is respectfully traversed.

Regardless of whether or not Yoshida discloses what was previously called for in claim 2, it certainly does not disclose what is now called for in claim 2. Withdrawal of the rejection is in order and is respectfully requested.

Claims 2 and 3 are rejected under §102(e) as anticipated by Kojima et al USP 5,622,56 (Kojima), citation AC on the form SB/08A. This rejection is also respectfully traversed.

As regards claim 2, applicant respectfully repeats what is already stated above, i.e. even if Yoshida discloses what was previously called for in claim 2, it certainly does not disclose what is presently recited in claim 2. As claim 3 incorporates the subject matter of claim 2, it also similarly defines over Yoshida.

Withdrawal of the rejection is in order and is respectfully requested.

Claims 2, 4-6 and 8 have been rejected as obvious under §103 from Yoshida. This rejection is respectfully traversed.

First, applicants do not accept that the features admittedly not shown by Yoshida would have been obvious, there being no apparent reason in the prior art for making any modifications in Yoshida, and the admittedly absent features apparently not being shown by any secondary prior art.

Perhaps more importantly, however, is the fact that the features added by amendment to claim 2 above are clearly not made obvious by Yoshida. As those features added to claim 2 are carried over into claims 4-6 and 8, these claims also define non-obvious subject matter over Yoshida.

Withdrawal of the rejection is in order and is respectfully requested.

Claims 2-6 and 8 have been rejected as obvious under §103 from Kojima. The rejection is respectfully traversed.

Again, applicants cannot accept that a claimed feature admittedly not shown by the reference would have been "obvious" without any evidence of obviousness.

Regardless, Kojima certainly does not make obvious the features added to claim 2 by amendment above. Claims 3-6 and 8 also contain these same features due to the fact that these claims depend from and incorporate the subject matter of claim 2, and so they also define non-obvious subject matter over Kojima.

Withdrawal of the rejection is in order and is respectfully requested.

Claim 7 has been rejected as obvious under §103 from either Yoshida or Kojima in view of Chrisey et al (Chrisey), citation AJ. These rejections are respectfully traversed.

Even if it were obvious to modify either Yoshida or Kojima in any way based on any of the teaching of Chrisey, respectfully not admitted by applicants, the resultant reconstructed Yoshida and the resultant reconstructed Kojima would not reach the subject matter of claim 2 as amended above, let alone claim 7 which depends from and incorporates the subject matter of claim 2. This is so because Chrisey has not been cited to make up for the deficiencies of Yoshida or

Kojima as pointed out above with respect to claim 2, and indeed does not do so. Therefore, even if the proposed combinations were obvious, they would not correspond to the subject matter of even claim 2, let alone claim 7.

Withdrawal of these rejections is respectfully requested.

Claim 4 has been rejected under the second paragraph of §112. The rejection is respectfully traversed.

Relative terminology is discussed in MPEP 2173.05(b). This section starts off with the following sentence:

The fact that claim language, including terms of degree, may not be precise, does not automatically render the claim indefinite under 35 USC 112, second paragraph. [citation omitted]

Nothing is said concerning the term "optimal."

Applicants respectfully note that the method features called for in claim 4 are independent control of the generation pressures of the fine particles and the transparent medium, and the recitation of optimum generation at the same time is simply a recited result. This would not be unclear or indefinite to those skilled in the present arts.

Nevertheless, in deference to the examiner's views and to avoid excessive argumentation, the criticized

terminology has been removed from claim 4 without any intended change of meaning, and without any added limitations.

Withdrawal of the rejection is in order and is respectfully requested.

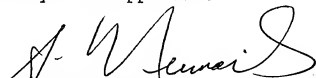
The prior art documents of record and not relied upon by the PTO have been noted, along with the implication that such documents are deemed by the PTO to be insufficiently material to warrant their application against any of applicants' claims.

Applicants believe that all issues raised in the Official Action have been addressed above in a manner that should lead to patentability of the present application. Favorable consideration and early formal allowance are respectfully requested.

Respectfully submitted,

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